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Attorneys for Defendant 23andMe, Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID MELVIN and J.L., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

23ANDME, INC.,

Defendant.

CASE NO. 3:24-cv-0487

Hon. Edward M. Chen

**DECLARATION OF REBEKAH S. GUYON
IN SUPPORT OF DEFENDANT 23ANDME,
INC.'S ADMINISTRATIVE MOTION FOR
LEAVE TO FILE REPLY TO PLAINTIFFS'
RESPONSE TO DEFENDANT'S MOTION
FOR EXTENSION (ECF Nos. 23, 26; L.R. 7-
11)**

DECLARATION OF REBEKAH S. GUYON

I, Rebekah S. Guyon, declare:

1. I am an attorney licensed to practice law in California and before this Court, and a shareholder with the law firm of Greenberg Traurig, LLP, counsel of record for Defendant 23andMe, Inc. (“Defendant”) in this action. This declaration is based on my personal knowledge, and if called upon to do so, I could and would testify competently thereto under oath.

2. On February 16, 2024, I informed counsel for Plaintiffs David Melvin and J.L. (the “Melvin Plaintiffs”) that Defendant intended to seek leave to file a Reply in support of Defendant’s Administrative Motion to Continue Deadline to Respond to Complaint Until After Case Management Conference Pursuant to LR 6(b) and 7-11 (the “Motion”). Counsel for the Melvin Plaintiffs agreed that Defendant may file a Reply in support of its Motion, subject to Defendant including the parties’ correspondence regarding 23andMe’s request for leave to file a reply, as set forth in **Exhibit A** to this Declaration.

3. As memorialized in **Exhibit A**, on February 16, 2024, my office sent the Melvin Plaintiffs’ counsel a Joint Stipulation and Proposed Order for the filing of Defendant’s reply brief. As of the time of this Declaration, counsel for the Melvin Plaintiffs have not yet replied regarding the draft stipulation. For this reason, Defendant filed its Administrative Motion for Leave to File a Reply.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed on February 16, 2024, in La Quinta, California.

/s/ Rebekah S. Guyon
REBEKAH S. GUYON

Exhibit A

From: [O'Carroll, Kristin \(Assoc-SFO-LT\)](#)
To: [Guyon, Rebekah S. \(SHLD-LA-LT\)](#); [Eli Wade-Scott](#)
Cc: [Korn, Adam \(Assoc-LA-LT\)](#); [Ballon, Ian \(Shld-LA-SV-LT-IP-TECH-ENT\)](#); [Pham, Chrystal \(Para-SFO-Labor-EmpLaw\)](#); [aprather@edelson.com](#); [epenkowski@edelson.com](#); [hhilligoss@edelson.com](#); [jedelson@edelson.com](#); [movca@edelson.com](#); [rbalabanian@edelson.com](#); [Sharifi, Haleh \(LSS-LA-LT\)](#)
Subject: RE: [Ext] Re: [Ext] RE: [Ext] RE: [Ext] Melvin et al. v. 23andMe, Inc., Case No. 3:24-cv-00487
Date: Friday, February 16, 2024 10:14:19 PM
Attachments: [image001.png](#)
[Melvin v. 23andMe - Stipulation Leave to File Reply\(693849973.2\).docx](#)

Hi Eli,

Attached please find the proposed final draft of the joint stipulation concerning 23andMe's reply in support of its administrative motion. Please advise if we have plaintiffs' consent to file.

Thank you,

Kristin O'Carroll
Associate

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From: Guyon, Rebekah S. (SHLD-LA-LT) <Rebekah.Guyon@gtlaw.com>
Sent: Friday, February 16, 2024 8:14 PM
To: Eli Wade-Scott <ewadescott@edelson.com>
Cc: Korn, Adam (Assoc-LA-LT) <Adam.Korn@gtlaw.com>; Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <Ballon@gtlaw.com>; Pham, Chrystal (Para-SFO-Labor-EmpLaw) <Chrystal.Pham@gtlaw.com>; aprather@edelson.com; epenkowski@edelson.com; hhilligoss@edelson.com; jedelson@edelson.com; movca@edelson.com; O'Carroll, Kristin (Assoc-SFO-LT) <ocarrollK@gtlaw.com>; rbalabanian@edelson.com; Sharifi, Haleh (LSS-LA-LT) <sharifih@gtlaw.com>
Subject: Re: [Ext] Re: [Ext] RE: [Ext] RE: [Ext] Melvin et al. v. 23andMe, Inc., Case No. 3:24-cv-00487

Eli,

As I said, we maintain that we have nothing to correct with the Court. Sorry if I gave an impression that it was the nature of the exhibits alone that prompted our request to file a reply.

We don't agree with how you framed the after hours Valentine's Day letter, or your claim that we didn't respond on the stip. To be clear, we seek to correct these and other misstatements in our reply.

We welcome a stipulation on the filing of a reply brief. We will prepare that, and agree to include this email as an exhibit. We believe our correspondence makes the parties' positions clear.

Regards,

Rebekah

On Feb 16, 2024 7:01 PM, Eli Wade-Scott <ewadescott@edelson.com> wrote:

Rebekah -

If we've corrected your understanding of the exhibits, I think you have an obligation to correct the record with the Court. (I don't co-sign that they were difficult in the first place, but if we have cleared something up that should be noted.)

If you're moving forward with filing a reply, we have no objection so long as you include this correspondence along with whatever else you plan to file.

Best,

Eli

Edelson PC

J. Eli Wade-Scott

350 N LaSalle St, 14th Floor, Chicago, IL 60654

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On Fri, Feb 16, 2024 at 8:40 PM <Rebekah.Guyon@gtlaw.com> wrote:

Eli,

Thanks for your email. I do appreciate your professionalism here. We don't think we made a misstatement to the court, including about the record and the description of our correspondence with your firm being incomplete and misleading. I appreciate you acknowledging that the exhibits were hard to follow.

You can be assured that our motion for leave will make clear that we are only seeking permission to add one exhibit to the record and to make the record clear, including but not limited to with respect to your assertion that we never responded on the stip.

I assume that you will oppose our motion for leave to file a reply, is that right?

Regards,

On Feb 16, 2024 4:53 PM, Eli Wade-Scott <ewadescott@edelson.com> wrote:

Rebekah -

Thanks, that clarifies things significantly. You should correct your representation to the Court that there are "incomplete and misleading excerpted exhibits" attached to our opposition. There is nothing that is excerpted, and you haven't even made an argument to support that assertion. The only thing you have pointed to is your view that we did not tell the Court that we sent the letter late on Wednesday. But we included—expressly for completeness—your e-mail of yesterday where you say exactly that, as an explanation for 23andMe's failure to engage. As far as the arbitration stipulation, you are welcome to cite the e-mail we filed—but surely we agree that does not make our exhibits "incomplete."

Reading between the lines, I think you made an honest error here, which is that you saw white space on the e-mail exhibits (which we explained were just removing the quoted e-mails for readability) and hastily sent this e-mail to the Court. I really think you should correct this misstatement if that's what happened, and we will not say another word about it.

Eli

On Fri, Feb 16, 2024 at 6:18 PM <Rebekah.Guyon@gtlaw.com> wrote:

Eli,

I am happy to work with you – but I do not see how my email below was unclear. We will be attaching the after-hours email on Valentine's day to our reply.

Regarding the stipulation, we advised you on January 28 that we would not sign the stipulation that you sent. I further advised you on February 10 that we are not willing to enter into a stipulation in light of your firms' very public efforts to undermine the mediation and refusal to work with the other plaintiffs' counsel involved. We will be citing to the exhibits you provided for these emails.

Regards,

Rebekah S. Guyon
Shareholder

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From: Eli Wade-Scott <ewadescott@edelson.com>
Sent: Friday, February 16, 2024 3:45 PM
To: Guyon, Rebekah S. (SHLD-LA-LT) <Rebekah.Guyon@gtlaw.com>
Cc: Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <Ballon@gtlaw.com>; O'Carroll, Kristin (Assoc-SFO-LT) <ocarrollK@gtlaw.com>; Korn, Adam (Assoc-LA-LT) <Adam.Korn@gtlaw.com>; Pham, Chrystal (Para-SFO-Labor-EmpLaw) <Chrystal.Pham@gtlaw.com>; Sharifi, Haleh (LSS-LA-LT) <sharifih@gtlaw.com>; epenkowski@edelson.com; hhilligoss@edelson.com; jedelson@edelson.com; movca@edelson.com; rbalabanian@edelson.com; aprather@edelson.com
Subject: Re: [Ext] RE: [Ext] Melvin et al. v. 23andMe, Inc., Case No. 3:24-cv-00487

Rebekah -

I understand that you intend to make arguments. I'm asking a very narrow, factual question, because you just told the Court that we submitted "incomplete and misleading excerpted exhibits." What does that mean? Even more specifically, on your position that you clearly rejected the stipulation, if we missed an e-mail, or didn't focus on the right part of an e-mail, please send it to us. We're happy to file an addendum attaching the e-mail and this correspondence.

Eli

On Fri, Feb 16, 2024 at 5:31 PM <Rebekah.Guyon@gtlaw.com> wrote:

Eli,

Thanks for your email. We will fully address this in our reply brief. Among other things, the fact that your letter cited heavily in your opposition was not sent to us until after business hours on Valentine's day, and that we previously advised you that we would not sign the stipulation waiving our right to arbitrate.

Regards,

Rebekah S. Guyon

Shareholder

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From: Eli Wade-Scott <ewadescott@edelson.com>

Sent: Friday, February 16, 2024 3:03 PM

To: Guyon, Rebekah S. (SHLD-LA-LT) <Rebekah.Guyon@gtlaw.com>

Cc: Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <Ballon@gtlaw.com>;

O'Carroll, Kristin (Assoc-SFO-LT) <ocarrollK@gtlaw.com>; Korn, Adam (Assoc-

LA-LT) <Adam.Korn@gtlaw.com>; Pham, Chrystal (Para-SFO-Labor-EmpLaw)

<Chrystal.Pham@gtlaw.com>; Sharifi, Haleh (LSS-LA-LT)

<sharifih@gtlaw.com>; epenkowski@edelson.com; hhilligoss@edelson.com;

jedelson@edelson.com; movca@edelson.com; rbalabanian@edelson.com;

aprather@edelson.com

Subject: Re: [Ext] Melvin et al. v. 23andMe, Inc., Case No. 3:24-cv-00487

EXTERNAL TO GT

Rebekah -

Removing Deputy Ayala for a moment. I expect that we will not be able to resolve your views of the "misstatements" in the brief, because we haven't made progress on that kind of assertion before. That said, to the extent you think we've omitted anything in the exhibits themselves, I'd like to understand that. What is missing?

Eli

On Fri, Feb 16, 2024 at 4:16 PM <Rebekah.Guyon@gtlaw.com> wrote:

Dear Deputy Ayala,

Counsel for 23andMe writes to inform the Court that it intends to seek leave to file a reply in support of its administrative motion for more time, ECF No. 23, to respond to and correct misstatements and incomplete and misleading excerpted exhibits in plaintiffs' opposition. We will file a motion seeking leave to file our reply today.

Best regards,

Rebekah S. Guyon
Shareholder

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